

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	

**REPLY OF THE
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION AND THE
NORTH DAKOTA ASSOCIATION OF TELECOMMUNICATIONS CARRIERS**

The South Dakota Telecommunications Association (SDTA) and the North Dakota Association of Telecommunications Carriers (NDATC) hereby jointly reply to comments on the Petition¹ and Clarification Petition² filed by Great Plains Communications (Great Plains) for waiver of Section 51.909(a)(4) and 51.917³ of the Commission's rules concerning the determination of access charges and eligible recovery for carriers that leave the NECA switched access pool.

As shown in SDTA's opposition to Great Plains' waiver, Great Plains has failed to meet the requirements for a waiver as it has presented no unique circumstances that would justify a waiver and the need for a waiver is solely because of matters bearing upon its due diligence before exiting the NECA switched access pool. The waiver also is not in the public interest

¹ Petition of Great Plains Communications for Waiver of 47 C.F.R. § 51.909(a)(4)(ii)(A) and 47 C.F.R. § 51.919(b), WC Docket No. 10-90, CC Docket No. 01-92 (June 21, 2017) (Petition).

² Clarification of Great Plains Communications Petition for Waiver of 47 C.F.R. § 51.909(a)(4) and 47 C.F.R. § 51.917, WC Docket No. 10-90, CC Docket No. 01-92 (July 27, 2017) (Clarification Petition).

³ In its Clarification Petition, Great Plains states that it mistakenly requested a waiver from 47 C.F.R. § 51.919(b) but intended to request a waiver from 47 C.F.R. § 51.917 and that it seeks a waiver of section 47 C.F.R. §51.909(a)(4), and not only § 51.909(a)(4)(ii)(A).

because it would undermine the policy objective of Section 51.909(a)(4) of the rules and it would arbitrarily reduce universal service support to Legacy Rate-of-Return (ROR) carriers (carriers that do not receive A-CAM support).

Section 51.909(a)(4) of the rules was adopted to prevent an "unintended shift in recovery between switched access charges and the Connect America Fund ICC support"⁴ and "to avoid creating unintended burdens on Connect America Fund ICC support"⁵ when carriers exit or enter the NECA pool. If Great Plains' waiver is granted, however, there will be a shift in recovery between switched access charges and CAF ICC support and an increased burden on CAF ICC support as a result. Thus, grant of the waiver is contrary to the policy objectives of the rule.

Notably, Great Plains and its supporters have provided no argument to justify the harm to this policy objective, nor have they provided any information as to the impact on the Commission's policy objective in adopting Section 51.909(a)(4) if the Great Plains waiver is granted and if similar waivers are then filed and granted. SDTA and NDATC ask the Commission to require NECA to provide information that would allow the FCC to arrive at a reasonable assumption as to how many other rural carriers receiving A-CAM support might elect to pursue similar waivers to determine the impact that granting these waivers might have on CAF ICC support demands.

The only justification for the waiver provided by Great Plains and its supporters is that Great Plains' originating access rates would increase, this could lead to an increase in rates to consumers, and interexchange carriers would have an incentive to refuse to complete calls to this rural area. The merits of these arguments, however, is in serious doubt.

⁴ In re Connect America Fund, Order, 28 FCC Rcd 3319, ¶11 (WCB 2013) (NECA Pooling Order).

⁵ NECA Pooling Order at ¶13.

It is far from adequate for Great Plains to rely on a claim that its rate increase is in violation of the Commission's policy to cap and reduce access rates. The rate increase imposed by Great Plains is the result of its own decision to exit from the pool. In addition, Great Plains and its supporters have provided no evidence that the increase in Great Plains' capped rate will be excessive in comparison to the extent to which other carriers exiting the pool may increase their rates. SDTA and NDATC ask the Commission to require NECA to provide information on carriers that have exited the pool and the impact of Section 51.909(a)(4) on the resulting capped access rates for those carriers.

There also is no evidence that an increase in Great Plains' access charges would result in an increase in rates to end user consumers. According to Verizon, Great Plains has already increased its originating access rate by 148% through its 2017 annual access tariff filing with, apparently, no impact on nationwide long distance charges.⁶ It also is unlikely that there would be an increase in rates in Nebraska since interexchange carriers are required to charge subscribers in rural and high cost areas rates that are no higher than the rates charged in urban areas and they are required to provide service to subscribers in each State at rates no higher than the rates charged to subscribers in any other State.⁷ It also is not clear how denial of the waiver would increase the incentive for interexchange carriers to refuse to complete calls to Great Plains because the waiver Great Plains is requesting relates to its originating access charges and rural call completion issues, to SDTA's and NDATC's understanding, arise entirely in the context of terminating calls to rural areas.

Finally, neither Great Plains nor its supporters address the harm that grant of the waiver will cause to Legacy ROR carriers. As explained in the initial comments of SDTA, NTCA and

⁶ Verizon Comments at 2-3.

⁷ 47 USC §254(g).

WTA, grant of the waiver is not in the public interest because it will reduce the amount of high cost support available for Legacy ROR carriers due to the established Budget Control Mechanism. It appears that the Great Plains waiver alone would decrease arbitrarily the amount of support available to Legacy ROR carriers by \$2.8 million and this could be the tip of the iceberg if other carriers seek the same waiver as Great Plains. As shown by SDTA, NTCA and WTA, Legacy ROR carriers are already experiencing a significant reduction in support due to the operation of the existing Budget Control Mechanism and other high cost mechanisms. Increasing the reductions in high cost funding through granting the waiver relief requested by Great Plains, and potentially similarly situated carriers, would have an even greater negative impact on Legacy ROR carriers and rural broadband investment.

Therefore, for the reasons discussed herein and in SDTA's Opposition, SDTA and NDAATC urge the Commission to deny Great Plains' waiver petition.

Respectfully submitted,

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